IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

Criminal Application No.273 of 2007

In

Criminal Appeal No.229 of 2007

Devchand Punaji Sukte & ors. .. .. Applicants

v/s.

The State of Maharashtra .. .. Respondent

Mr.A.V. Sugadare for Applicants.

Mr.F.R. Shaikh, APP for Respondent- State.

CORAM : DR.S. RADHAKRISHNAN &

SMT.ROSHAN DALVI, JJ.

Dated : 9th August, 2007

P.C. :

1. Heard the learned Counsel for the Applicants and the learned APP for the Respondent- State.

2. In the above matter, all the three Applicants- Accused have been found guilty of the offence punishable under Section 302 read with Section 34 of Indian Penal Code.

3. The learned Counsel for the Applicants states that only Applicant Nos.1 and 2 have preferred an Application for bail and Applicant No.3 has not preferred the same. He submitted that all the blows were given by Applicant No.3 and Applicant Nos.1 and 2 had really no role to play.

4. In paragraph 37 of the judgment, the learned Sessions Judge has observed that Applicant Nos.1 and 2 were holding hands and legs of the deceased during the course of incident while Applicant No.3 – Raju inflicted blows. Accordingly, the learned Judge came to a conclusion that all three of them came together and had assaulted the deceased while he was asleep and the entire incident was witnessed by Prosecution Witness No.1-Rajesh Kamble. The evidence of P.W.No.1-Rajesh Kamble has been considered wholly reliable and trustworthy and the same has been discussed in paragraph 36 of the trial Court's judgment.

5. In the circumstances aforesaid, we do not find that the above judgment of the trial Court is based on no legal evidence at all. Hence, we are not inclined to grant the Bail

Application and the same stands dismissed accordingly.

(DR.S. RADHAKRISHNAN, J.)

(ROSHAN DALVI, J.)